

REMARKS

Introductory Comments

Reconsideration of the above-identified application in view of the above amendments and foregoing arguments is respectfully requested.

Claims 126-136 are pending and under consideration. Claims 127-136 are new. Claims 115-125 have been deleted. No new matter has been added as a result of the amendments to claim 126 and the addition of new claims 127-136.

Explanation of Claim Amendments

Claims 127-136 have been added. The Examiner will note that these claims are limited to SEQ ID NOS: 11 and 12 and employ the transition "comprising". Upon review of the Office Action issued by the Examiner on May 20, 2003, Applicants realized that in their Amendment filed on October 14, 2003 that in response to item #9 in said Office Action, that SEQ ID NOS: 11 and 12 were unnecessarily included in new claims (115-125) that recited the transition "consisting of". The inclusion of these sequences in these claims that contained this transition was an error. This error is apparent as the Examiner explicitly stated on page 6 in the last line of item #9 that "Amendment of the claims to polynucleotide consisting of SEQ ID NO:1, 2, 3, 4, 5, 7, 8, 9 and 10. [sic] would overcome this rejection." The addition of new claims 127-136 seeks to correct this error.

Objection of Claims 117 and 126

Claims 117 and 126 are objected for informalities. Specifically, claim 117 recites "of: of" which is a typographical error. Claim 117 has been deleted. Additionally, the Examiner states that in claim 126, "degenerate codon equivalents of" is improperly recited since the claim refers to polynucleotides

instead of polypeptides. The Examiner suggests amending the claim to recite "and degenerate codon equivalents encoding" in order to overcome the objection. Applicants have amended the claim as suggested by the Examiner. Applicants thank the Examiner for her suggestion.

Therefore, Applicants respectfully request withdrawal of the objection of claims 117 and 126 for informalities.

Rejection of Claims 115-125 Under 35 U.S.C. § 112, Second Paragraph

Claims 115-125 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, Examiner asserts that for claim 120, since the specification discloses SEQ ID NOS: 1-12 as partial sequences, the claim cannot state that these sequences contain a control sequence. Applicants have deleted claim 120, therefore, this rejection is now moot.

Additionally, the Examiner states that for claims 115, 117, 120, 122 and 123, "degenerate coding sequences thereof" is an improper recitation since the claims pertain to polynucleotides instead of polypeptides. Applicants have deleted these claims, therefore, this rejection is now moot.

Accordingly, Applicants respectfully request withdrawal of the rejection of claims 115-125 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Rejection of Claims 120 and 121 Under 35 U.S.C. § 102(e)

Claims 120 and 121 are rejected under 35 U.S.C. § 102(e) as being anticipated by Au-Young *et al.*, U.S. Patent No. 5,856,136 (herein "Au-Young") or Reiter *et al.*, U.S. Patent No. 6,267,960 (herein "Reiter").

Specifically, the Examiner states that Au-Young discloses the instant SEQ ID NOS: 4 and 5 in that patent's SEQ ID NO: 4 and Reiter discloses the instant SEQ ID NOS: 3-5 in that patent's SEQ ID NO: 1. Applicants have deleted claims 120 and 121 and therefore, this rejection is now moot.

For these reasons, Applicants respectfully request withdrawal of the rejection of claims 120 and 121 under 35 U.S.C. § 102(e) as being anticipated by Au-Young *et al.*, U.S. Patent No. 5,856,136 or Reiter *et al.*, U.S. Patent No. 6,267,960.

Rejection of Claims 120 and 121 Under 35 U.S.C. §112, First Paragraph

Claims 120 and 121 are rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors, at the time the application was filed, had possession of the claimed invention. Specifically, Examiner asserts these claims, giving their broadest possible interpretation, reads on genomic sequences including any full length genes containing the instant SEQ ID NOS. The Examiner states that, however, the specification does not disclose all of these possible sequences. Applicants have deleted claims 120 and 121, therefore, this rejection is now moot.

Accordingly, Applicants respectfully request withdrawal of the rejection of claims 120 and 121 are rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors, at the time the application was filed, had possession of the claimed invention.

CONCLUSION

Applicants respectfully submit that the claims comply with the requirements of 35 U.S.C. Sections 112 and 102. Accordingly, a Notice of Allowance is believed in order and is respectfully requested.

Should the Examiner have any questions concerning the above, she is respectfully requested to contact the undersigned at the telephone number listed below. If the Examiner notes any further matters which the Examiner believes may be expedited by a telephone interview, the Examiner is requested to contact the undersigned.

If any additional fees are incurred as a result of the filing of this paper, authorization is given to charge deposit account no. 23-0785.

Respectfully submitted,

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